

Title	<b>New Forms for Petition and Order for Expungement of Criminal Case</b> (approve form CR-180).
Summary	The proposed form would help persons convicted of a crime have the conviction set aside and the matter dismissed, if appropriate under Penal Code sections 1203.4 or 1203.4a.
Source	Criminal Law Advisory Committee
Staff	Joshua Weinstein, 415-865-7688, joshua.weinstein@jud.ca.gov
Discussion	<p>Penal Code sections 1203.4 and 1203.4a provide procedures for defendants who have satisfactorily completed probation to petition the court to have the conviction removed from their record. If the court grants the petition, the guilt plea will be withdrawn or finding of guilt will be set aside, a plea of not guilty will be entered and the case will be dismissed. (Pen. Code, §§ 1203.4(a) and 1203.4a(a).)</p> <p>Petitioning the court to set aside the conviction can be confusing and hiring an attorney to do so can be costly. The procedures under Penal Code sections 1203.4 and 1203.4a are complex and are seldom used. Thus, it is difficult to petition the court without hiring an attorney, yet practitioners are unfamiliar with the procedure. This optional form is designed to alleviate those burdens by presenting the petition in a simple check-box format.</p>
	Attachments

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>  STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY  <b>DRAFT #3</b> <b>3/01/04</b>
<b>The People of the State of California</b> <div style="text-align: right;">Plaintiff</div> VS <div style="text-align: right;">Defendants(s)</div>	
<b>DEFENDANTS INFORMATION</b>  CII: Drivers Lic #: SSN # DOB:	
<b>PETITION AND ORDER FOR EXPUNGEMENT</b> <b>(PEN. CODE §§ 1203.4 OR 1203.4a)</b>	CASE NUMBER:

### PETITION

The defendant in the above-entitled criminal action, was convicted of a violation of section(s) \_\_\_\_\_ of \_\_\_\_\_ on \_\_\_\_\_. The offense was a: ☐ misdemeanor or ☐ felony.

Date

1. Felony offense (Pen. Code § 17):

☐ The offense listed above is a felony that may be reduced to a misdemeanor under Penal Code section 17.

2. All offenses with probation granted (Pen. Code, § 1203.4):

☐ Probation was granted on the terms and conditions set forth in the docket of the above entitled court; the defendant is not serving a sentence for any offense, nor on probation for any offense, nor under charge of commission of any crime, and the defendant has

(1) ☐ fulfilled the conditions of probation for the entire period thereof;

(2) ☐ been discharged from probation prior to the termination of the period thereof.

3. Misdemeanor offense with sentence other than probation (Pen. Code, § 1203.4a):

☐ Probation was not granted; more than one year has elapsed since the date of pronouncement of judgment; the defendant has complied with the sentence of the court; the defendant is not serving a sentence of any offense nor under charge of commission of any crime, and since said pronouncement of judgment has lived an honest and upright life, and conformed to and obeyed the laws of the land.

(continued on the next page)

PEOPLE OF THE STATE OF CALIFORNIA vs.  
DEFENDANT:

CASE NUMBER:

Petitioner requests that defendant be permitted to withdraw his plea of guilty, or that the verdict or finding of guilt be set aside and that a plea of not guilty be entered and that the court dismiss this action pursuant to Section ☐ 1203.4 or ☐ 1203.4a of the Penal Code.

☐ Petitioner requests that the felony charge be reduced to a misdemeanor under Penal Code section 17.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: \_\_\_\_\_ at \_\_\_\_\_ CA.  
(Date) (City)

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Street Address (defendants)

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

### ORDER

- ☐ The Court hereby denies the above petition.
- ☐ It appearing to the court from the records on file in this case, and from the foregoing petition, that the defendant is eligible for the relief requested.
- ☐ The Court reduces the felony offense to a misdemeanor.

It is ordered that the plea, verdict, or finding of guilt in the above-entitled action be set aside and vacated and a plea of not guilty be entered; and that the complaint be, and is hereby dismissed. If this order is granted pursuant to the provisions of Penal Code section 1203.4, the defendant is required to disclose the above conviction in response to any direct question contained in any questionnaire or application for public office or for licensure by any state or local agency, or for contracting with the California State Lottery.

If the order is granted pursuant to either the provisions of Penal Code section 1203.4 or 1203.4a, the defendant is released from all penalties and disabilities resulting from the offense except as provided in Penal Code section 12021.1 and Vehicle code section 13555. The dismissal does not permit a person to own, possess, or have in his or her control a firearm if prevented by Penal Code section 12021.1.

Dated \_\_\_\_\_

\_\_\_\_\_  
Judge